

**REMARKS**

Claims 1-21 and 52-64 have been withdrawn.

Claims 22-30, 32, 33, 35-37 and 39-48 stand rejected.

Reconsideration of the rejections is respectfully requested in view of the foregoing amendments and the following remarks.

Claims 39, 40, 42 and 43 are rejected under 35 U.S.C. §103(a) as being unpatentable over Dumas in view of International Publication Number WO 95/02436 (Jones).

Claim 39 has been amended to more clearly define the subject matter which applicant regards as the invention. More specifically, amended claim 39 recites, among other aspects, "the plurality of repeated modular holes comprising an equal number of fairways and putting greens". This aspect is most clearly shown in FIGS. 1 of applicant's specification and may also be appreciated from FIG. 1a. In this respect, the plurality of repeated modular holes may assume various configurations to form the course without regard to one or more putting greens being shared by more than one fairway as taught by Dumas (col. 4, lines 64-67). Embodiments of courses formed by arranging the plurality of repeated modular holes in accordance with the invention may each have an equal number of fairways and putting greens. This aspect is advantageous because it allows for each of the plurality of repeated modular holes to be positioned without regard for another hole location and played as an individual hole regardless of the course's configuration.

Dumas further teaches a golf course configured with a plurality of sequential arrangements of golf links. The golf course orients putting green areas and fairway areas in a predetermined web pattern where there are more fairway areas than putting green areas (col. 2, lines 1-7). Each of the fairway areas is also associated with one or two tee areas with the web pattern (col. 4, lines 7-9). This allows for maximizing the number of sequential golf links while minimizing the number of putting green areas and fairway areas, and provides many different orders of golf links that may be played on the same course. To accomplish this, the putting green areas of Dumas are associated with more than

one fairway area as shown in FIGS. 1 and 2, and disclosed in column 2, lines 33-37 and elsewhere.

Dumas further teaches that the predetermined web pattern may be arranged to create a course with fairways of varying lengths so that the course has discrete par 5, par 4 and par 3 holes, which is similar to that of a traditional golf course (col. 4, lines 47-58). This is in contradistinction to applicant's repeated modular holes where each hole includes "a fairway having substantially the same length" as recited in amended claim 39. This feature, as well as others contribute to the modularity and therefore the repeatability of each hole of applicant's invention.

In this respect, traditional golf course designers typically design each hole of a course to have unique features that may be a function of topography or preferences of an individual. Providing variety among traditional golf course holes tends to make the course more interesting and presents various shot making challenges to a player. The same is also true for miniature or putt-putt golf courses where each hole presents a different configuration or set of obstacles to challenge a player.

An advantage of applicant's invention is that each hole on the course layout is modular and may be repeated regardless of terrain or other geographical constraints. Each hole is defined by rectangular dimensions of substantially the same size and includes a set of substantially identical common features to create uniformity among the holes. This modularity allows for the holes to be repeated creating a course layout on relatively small parcels of land that is cost effective and easily constructed.

In rejecting claims under 35 U.S.C. §103(a), the Examiner bears the initial burden of establishing a *prima facie* case of obviousness. The Examiner can only satisfy this burden by showing that some objective teaching in the prior art or knowledge generally available to one of ordinary skill in the art suggests the claimed subject matter. M.P.E.P. §2142. Further, obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion or motivation to

do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art. M.P.E.P. §2143.01.

Applicant respectfully submits that the invention as claimed in amended claim 39 is not obvious in view of the prior art of record. More particularly, there is no teaching, suggestion or motivation found in Dumas, Jones or the knowledge generally available to one skilled in the art to modify Dumas in view of Jones to arrive at the invention as claimed in amended claim 39.

In this respect, the essence of the Dumas teachings is to provide a golf course with a plurality of golf link sequential arrangements. These are obtainable by orienting putting green areas and fairway areas in a predetermined web pattern and wherein there are more fairway areas than putting green areas with the putting green areas having a single associated one of the fairway areas in each of the sequential arrangements (col. 1, line 67 to col. 2, line 6). Various embodiments of how this may be attained are shown in FIGS. 1, 2 and 4-7. Each of these figures illustrate web patterns that include more fairway areas than green areas to define a course. In contradistinction, amended claim 39 recites that the plurality of repeated modular holes forming the course includes "an equal number of fairways and putting greens". While this distinction may seem a simple one, applicant respectfully submits that there is no teaching, suggestion or incentive in Dumas to equalize the number of fairway areas and green areas on a course, as this would defeat the essence of its own teachings.

With respect to Jones, a golf course and method are provided with teeing areas arranged with respect to a target cup on a target green to encompass significantly different terrain with respect to distances and trajectories to the target cup. Thus, the teeing areas are positioned so that two players with different abilities to drive a golf ball for distance and accuracy can tee off from different particular teeing areas and encounter different levels of difficulty. This approach eliminates the need to adjust the players' total score by any handicap figures (page 3, lines 17-26). Further, as shown in FIG. 1 and discussed on page 5, lines 12-29, the teachings of Jones pertain to regulation length golf holes such

as the 470-yard hole (270 yards plus 200 yards from teeing area 1) shown in FIG. 1. FIG. 2A also illustrates that the regulation length course of Jones includes discrete holes of varying lengths, shapes and terrain. Applicant respectfully submits that there is no teaching, suggestion or incentive found in Jones, Dumas or the knowledge generally available to one skilled in the art to modify the teachings of Dumas in view of Jones to arrive at the invention as claimed in amended claim 39.

Claims 22-28, 30, 32, 33 and 44 are rejected under 35 U.S.C. §103(a) as being unpatentable over Dumas in view of Jones and Shaw. Claim 22 has been amended to more clearly define the subject matter which applicant regards as the invention. More specifically, amended claim 22 recites, among other aspects, "wherein the plurality of repeated modular holes are positioned with respect to one another to define only one sequence for playing the course layout." Single sequences for playing a plurality of repeated modular holes is shown in FIG. 2 of applicant's drawings. In this aspect, the predetermined web patterns of Dumas teach courses having "a plurality of golf link sequential arrangements" (col. 1, line 67 to col. 2, line 7). This teaching is clearly shown in FIGS. 1, 2 and 4-7.

As is well established, the mere fact that references can be combined or modified does not render the resultant combination or modification obvious unless the prior art suggests the desirability of the combination or modification. M.P.E.P. 2143.01. Applicant respectfully submits that there is no teaching, suggestion or incentive in the prior art to arrive at the invention as claimed in amended claims 22 and 39.

With respect to Dumas, there is no teaching, suggestion or incentive to arrange the fairway areas and green areas to have only one sequential arrangement or arrange them so that there were an equal number of fairway areas and green areas, as these modifications would defeat the essence the Dumas teachings. With respect to Jones, the teeing areas are positioned so that two players with different abilities to drive a golf ball for distance and accuracy

can tee off from different particular teeing areas and encounter different levels of difficulty on a regulation length course.

In rejecting claims 22 and 39 under 35 U.S.C. §103(a), the Examiner suggested that the tee positions disclosed in Jones could be positioned along the fairways disclosed in Dumas "to increase the versatility of the golf course", which is presumably the requisite motivation for such a combination. However, the versatility of Dumas is derived from the various grids illustrated in FIGS. 1, 2 and 4-7 that define "predetermined web pattern" wherein there are "more fairway areas than putting green areas" (col. 2, lines 2-4). This allows for a plurality of sequential links arrangements, which establishes the versatility of the course. In fact, one embodiment allows for over 8,000 different sequential arrangements of golf links (col. 6, lines 13-26). Considering this tremendous versatility already possessed by Dumas, applicant respectfully submits that there is no teaching, suggestion or incentive found in Dumas, Jones or the knowledge generally available to one skilled in the art to modify the teachings of Dumas with the teeing arrangements of Jones to further increase the versatility of the predetermined web patterns of Dumas as suggested by the Examiner.

This is especially true in light of the amendments to claims 22 and 39. There is no teaching, suggestion or incentive found in Dumas, Jones or the knowledge generally available to one skilled in the art to modify Dumas so the course has a single sequential layout, or has an equal number of teeing areas and green areas, in addition to then adding the teeing arrangements of Jones. No teaching, suggestion or motivation is found in the prior art to arrive at the invention as claimed in amended claims 22 and 39 or any claim depending there from.

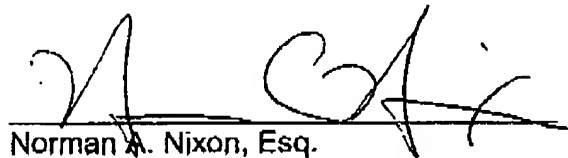
In view of the above, applicant respectfully submits that amended claims 22 and 39 and all claims depending there from are allowable over the prior art.

Consequently, applicant respectfully requests reconsideration of the merits of this invention and asserts that claims 22-30, 32, 33, 35-37 and 39-48 are in condition for allowance. Notice to that effect is respectfully requested.

The Examiner is invited to call applicant's representative at the number below to discuss any aspects of this application to move it more expeditiously to allowance.

DATED this 21<sup>st</sup> day of February 2006.

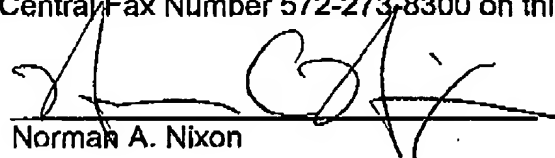
Respectfully submitted,



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CERTIFICATE OF TRANSMISSION

I HEREBY CERTIFY that this Amendment is being FAXED to Commissioner for Patents at the Central Fax Number 572-273-8300 on this 21<sup>st</sup> day of September, 2006.



Norman A. Nixon